



DEPARTMENT OF THE TREASURY
UNDER SECRETARY FOR TERRORISM AND FINANCIAL INTELLIGENCE

EXECUTIVE OFFICE FOR ASSET FORFEITURE
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JUN -5 2013

Mr. John Childrey, Deputy Attorney General
Office of the Attorney General
Commonwealth of Virginia
900 East Main Street
Richmond, Virginia 23219

Dear Mr. Childrey:

I am writing in response to your email of May 24, 2013 concerning equitable sharing in the Abbott Labs forfeiture case. As you noted, our offices have maintained, for quite some time, open dialogue and communication about the status of this record-high and potentially precedent-setting sharing request. We have also discussed the policy challenges presented by an equitable sharing payment of this size, as well as potential initiatives that could be funded with these proceeds.

The Treasury Executive Office for Asset Forfeiture (TEOAF) is responsible for the sound management and integrity of the Treasury forfeiture program, including any equitable sharing of proceeds from the Treasury Forfeiture Fund. The Abbott forfeiture has resulted in the largest equitable sharing request TEOAF has encountered in its twenty-year history. Under long-standing Treasury policy, your office's participation in the Abbott investigation should result in an equitable share that exceeds \$100 million, an amount that is almost three times greater than your agency's annual operating budget and which constitutes a "windfall" under Treasury sharing policy. In such cases, TEOAF's goal is to give receiving agencies latitude to put such large sums of money to good use, while continuing to ensure that funds are used for appropriate purposes and in a fiscally responsible manner.

With this as background, I can now inform you that TEOAF is prepared to finalize the equitable sharing decision package and we believe that the contributions of the Office of the Attorney General of Virginia warrant a share of 58% of the total forfeiture net of costs.

Shared funds must conform to current Treasury policy requirements, which include the following:

1. Any funds received must be spent within two years.
2. With very limited exceptions, to include certain windfall situations, the funds must be used for law enforcement purposes.
3. Generally, the funds cannot be used for salaries.
4. The funds cannot be used in any way that may be considered a supplantation of the current budget.
5. Pass-throughs to other agencies are limited and require special approval.

I am prepared to authorize an initial distribution of approximately \$10 million to your agency. Under Treasury's current sharing policy, this amount would constitute the non-windfall portion of your equitable share in that it would total no more than 25% of your agency's annual budget. These funds would be available for the exclusive use of your agency and would be subject to Treasury policy restrictions, as discussed above.

I am prepared to transfer additional amounts for the use of your agency or for pass-through to other law enforcement agencies. However, with regard to pass-throughs, before any portion of these funds can

be paid, your office must provide the name of the intended recipient agency, a detailed description of the proposed initiatives, and the anticipated amount of each transfer. This information is necessary for my office to determine whether the initiatives are consistent with Treasury forfeiture program requirements and whether the receiving agency is currently in compliance with those requirements. It is also necessary to determine whether the proposed payment may trigger a windfall situation for the recipient of the pass-through. Please keep in mind that every agency that receives funds via a pass-through is subject to the same requirements as the original recipient of the funds.

I believe that with a cooperative effort we can achieve an outcome that satisfies both Treasury requirements and provides significant benefit to the Commonwealth of Virginia's law enforcement efforts. I anticipate receiving detailed initiatives from your office, and look forward to assisting these through the approval process. Please direct your questions and funding requests to Jackie Jackson, who can support you in these efforts. Ms. Jackson can be reached at 202-622-2755, or by email at Jackie.Jackson@treasury.gov.

Please see the attached document for initial comments concerning the various funding proposals and ideas our offices have discussed over the last several months. I hope the information I have provided can put to rest any concerns your office may have.

Sincerely,


Eric E. Hampl

Attachment

ATTACHMENT

1. **The School and Campus Security Task Force and the Mental Health Working Group** – Your office has not provided an anticipated amount for this transfer or the time frame over which the funds will be spent. While it would be acceptable to use equitably shared funds to further the task force and the working group, decisions regarding the ultimate funding of recommendations that emanate from these two working groups cannot be made until the studies are complete. Please provide that information when it becomes available.
2. **\$20 Million for Training of Commonwealth Attorneys** – Although this proposal lacks specificity, it appears that your intent is to provide these funds to the law school of the College of William and Mary as an endowment. My understanding is that the College currently houses staff and facilities for the Commonwealth's Attorney's Services Counsel at a cost of approximately \$500,000 per year. If this is correct, the proposal presents a number of potential issues. Most notable is that the funds must be spent within two years; an impossibility given the size of your proposed pass-through and the costs that you currently incur. In addition, it appears that a potential supplantation issue may be present in that transfer of the funds will eliminate what I assume to be a \$500,000 budget item. Finally, I do not yet know whether a college endowment fund can qualify as a pass-through recipient under current Treasury policy. Additional information/clarification would be helpful.
3. **A Proposed Pass-Through of Funds to the Commonwealth of Virginia Department of Public Safety** – Your office has not provided an anticipated amount for this proposed transfer. However, it is my understanding that this department contains approximately 12 state agencies. Therefore, in each instance, my office would need sufficient information to assess potential windfall, use of funds, time limit and supplantation issues.
4. **Funding for Virginia Law Enforcement Officers Retirement Fund and Virginia State Police Retirement Fund** – Your office has not provided an anticipated amount for these transfers. However, regardless of the amounts, these proposals raise issues that require legal and policy review.
5. **Funding for Dangerous Bridges** – Your office has not provided an anticipated amount for this transfer or the time frame over which the funds will be spent. This proposal would require legal evaluation of the agency's qualification to receive funds.
6. **\$1 Million Funding to Complete the Virginia Public Safety Memorial** – This appears to be a qualifying use.
7. **Internet Accessibility for Virginia Agency Budgets** – This does not appear to be a qualifying use because no connection to law enforcement or public safety can be made.
8. **Facilities for Mentally Ill Patients** – Your office has proposed to build or refurbish a facility to house mentally ill patients that have been ordered held for treatment, evaluation or restoration by a state court. At this time, your office has not provided a specific proposal, a cost estimate, or identified an agency that would be the recipient of these funds. Regardless of the amount, this proposal raises issues that require legal evaluation. Any additional information that your office can provide may be helpful.